

Morgan Lewis

Ulises R. Pin

Catherine Kuersten

ulises.pin@morganlewis.com

catherine.kuersten@morganlewis.com

March 14, 2018

Via ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: GN Docket No. 15-206
Notice of *Ex Parte* Communication

Dear Ms. Dortch:

The Submarine Cable Coalition (“Coalition”), by its undersigned counsel, hereby notifies the Commission of an *ex parte* communication on March 13, 2018, between representatives of the Coalition and Commission staff from the International Bureau and the Public Safety and Homeland Security Bureau. Steph Selmer and Rich Pierce of Google, and Ulises Pin and Catherine Kuersten, counsel for the Coalition, met with Merritt Baer, David Plotinsky, Zach Taft, Kate Collins, David Krech, Doug Klein, Troy Tanner, John Healy, Denise Coca, and Michael Connelly. Commission staff Nicole McGinnis, Brenda Villeneuve, Robert Finley, and Jerome Stanshine also participated telephonically, as well as Coalition representatives, Victor Lago of C&W Networks and Doyle Barlow of Google. The Coalition and Commission staff discussed the Coalition’s 2016 Petition for Reconsideration (“Petition”)¹ of the Commission’s order on submarine cable outage reporting requirements.²

As noted in the Petition, the Coalition urged the Commission to reconsider the definition of an “outage” contained in the Outage Order. The current definition is overly

¹ Petition for Reconsideration of the Submarine Cable Coalition, *Improving Outage Reporting for Submarine Cables and Enhanced Submarine Cable Outage Data*, GN Docket No. 15-206 (filed Aug. 11, 2016).

² *Improving Outage Reporting for Submarine Cables And Enhanced Submarine Cable Outage Data*, Report and Order, GN Docket No. 15-206 (rel. Jul. 12, 2016) (the “Outage Order”).

Morgan, Lewis & Bockius LLP

1111 Pennsylvania Avenue, NW
Washington, DC 20004
United States

T +1.202.739.3000
F +1.202.739.3001

expansive and captures a significant number of mundane events that will provide no utility to the Commission. For example, the Outage Order would require reporting of shunt faults and even routine planned maintenance. The Coalition further explained that submarine cable operators have substantial redundancies built in to ensure continuity of traffic, whether through re-routing or even backup capacity on satellite systems. Purchasing alternative capacity is an industry standard that submarine cable operators are economically incentivized to maintain and is present in most contractual agreements with customers. As such, the Commission should recognize that traffic is generally not linear over one system, and that traffic is commonly rerouted whether due to a cable cut, quality degradation, or even latency.

The Coalition addressed the Commission's concerns with respect to the outage in the Northern Mariana Islands, as cited in the Outage Order, and emphasized that this event was unique, isolated, and a deviation from common industry practice. Conversely, most submarine cable routes utilize multiple cables and other means of redundancy, and frequently reroute traffic. Moreover, submarine cable operators take proactive measures to maintain connectivity, including through leveraging technological developments to monitor and affirmatively prevent man-made events that may threaten cables. The security of these systems and practices is evident in how well operators have weathered recent hurricanes without major issues.

The Coalition further urged the Commission to re-evaluate its cost-benefit analysis, which grossly underestimates the burden to operators and does not adequately demonstrate any benefits. The Coalition agreed that the Commission is entitled to know if there is a cable failure and does not oppose reporting actual traffic-interrupting failures. However, the Coalition reiterated that, as written, the reporting requirements in the Outage Order are bureaucratic and burdensome, and provide little value to the Commission or to consumers.

More importantly, the reporting requirements as written are onerous and divert precious resources away from ensuring that consumers maintain adequate and continuous coverage of services. In the event of a submarine cable failure, submarine cable operators will need to require their engineers to fill out paperwork rather than actually monitoring and fixing the situation. This is true even if the failure creates no disruption to services. The Commission should prioritize addressing and correcting failures over reporting the outage, and should encourage operators to do the same.

Accordingly, the Coalition urged the Commission to re-consider its Outage Order consistent with the Petition.

Ms. Marlene H. Dortch, Secretary
March 14, 2018
Page 3

To the extent you have questions, please feel free to contact the undersigned.

Respectfully,

/s/

Ulises R. Pin
Catherine Kuersten

*Counsel for the
Submarine Cable Coalition*

cc: (via e-mail)
Merritt Baer
David Plotinsky
Zach Taft
Kate Collins
David Krech
Doug Klein
Troy Tanner
John Healy
Denise Coca
Michael Connelly
Nicole McGinnis
Brenda Villeneuve
Robert Finley
Jerome Stanshine